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August 3, 2021

Hon. Analisa Torres
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Mario Badescu Skin Care, Inc. v. Sentinel Insurance Company Limited*
Docket: USDC/SDNY, Case #20-cv-6699
Our File: 20-117

Hon. Judge Torres:

This firm represents Plaintiff Mario Badescu in the above-referenced action. We write to object to the August 2, 2021 letter filed in further support of Defendant Sentinel Insurance Company Limited (“Defendant” or “Sentinel”) underlying motion to dismiss. As noted in prior correspondences to Your Honor, this case arises from a dispute regarding coverage for Covid-19 losses in connection with a policy of insurance issued by Defendant to Plaintiff Mario Badescu Skin Care, Inc. (“Plaintiff” or “Badescu”).

Plaintiff objects to the filing of the letter as it was done outside the briefing schedule ordered by this Court and was done without first asking the Court for leave to do so. As such, the submission is improper and only serves as a self-serving ex parte communication which is not allowed pursuant to the Court’s rules.

Furthermore, even if this Court accepts and considers Defendant’s letter, the cases cited by Defendant within same are not analogous to the facts in this matter. The cited to decisions were in matters where no expert reports were submitted in support of the insured’s claim.

Plaintiff submitted the expert reports of Dr. Michael Sulzinski and Dr. Aleksandr Aravkin with its Opposition. In so doing, Plaintiff’s counsel affirmed that the expert’s opinions were considered in the drafting of the complaint, the allegations within Plaintiff’s complaint are not conclusory. Rather, and unlike the numerous matters offered by the Defendant, the allegations in the Badescu complaint are supported with by our experts, which should be sufficient to deny Defendant’s motion at the very least. As such, although Defendant believes that submitting to the

Court these numerous “favorable” decisions will sway Your Honor’s decision, Sentinel’s August 2, 2021 further submission in support is nothing but a red herring as none of the cases cited to by Defendant are analogous to Badescu’s matter in which Plaintiff has submitted expert opinion and factual support for those allegations within its pleadings.

Additionally, although the Defendant makes it seem like there are only decisions decided in Sentinel’s favor, the Court should be made aware of decisions in which motions to dismiss were denied in Covid-19 matters. *See Atwells Realty Corp. v. Scottsdale Insurance Company*, CA PC-2020-04607 (Rh. Is. Sup. Ct. June 4, 2021); *Brown’s Gym v. The Cincinnati Insurance Company, et al.*, 20 CV 3113 (Pa. Lackawanna Ct. July 13, 2021); and *Ross Stores, Inc. v. Zurich American Insurance Company, et al.*, RG20-084158 (Ca. Sup. Ct. April 21, 2021) and annexed to this letter as **Exhibit A**. In each of the aforementioned cases, the Courts found that there were questions of fact regarding the respective policies and whether there was coverage for the physical loss or damage or from civil authority coverage based on the government shutdown orders.

Respectfully submitted,

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Attorneys for Plaintiff

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